



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

February 16, 2020

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Denzel Jacobs**
Tax Registry No. 959709
84th Precinct
Disciplinary Case No. 2019-20391

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on October 27, 2020, and was charged with the following:

DISCIPLINARY CASE NO. 2019-20391

1. Said Police Officer Denzel Jacobs, assigned to PSA 1, on or about April 13, 2019, did wrongfully engage in conduct prejudicial to the good order and efficiency of the Department, to wit: said Police Officer Jacobs violated a valid Kings County Family Court Order of Protection.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated November 23, 2020, Assistant Deputy Commissioner Jeff S. Adler found Police Officer Denzel Jacobs Guilty of the sole Specification in Disciplinary Case No. 2019-20391. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have reviewed the facts and circumstances of this matter and have determined that the misconduct does not warrant a period of Dismissal Probation.

Particularly, given the totality of the circumstances herein, the behavior of Police Officer Jacobs, while wrong, does not rise to the level where an imposition of a penalty as heavy as dismissal probation is warranted.

Specifically, Police Officer Jacobs violated an active Order of Protection by engaging in a conversation with the mother of his child about being able to visit the child on the child's birthday. There was no physical violence between the parties at that time,

or at any other time before or after the incident in question. Sole violation of an Order of Protection, as a first offense, and without further aggravating factors, is more appropriately addressed by forfeiture of served suspension days rather than an imposition of additional penalty such as dismissal probation.

Therefore, having considered the totality of the issues and circumstances in this matter regarding the misconduct for which Police Officer Jacobs has been found Guilty of, I have determined that Police Officer Jacobs shall forfeit thirty-one (31) suspension days as a disciplinary penalty.


Dermot F. Shea
Police Commissioner



POLICE DEPARTMENT

November 23, 2020

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In the Matter of the Charges and Specifications :

Case No.

- against - :

Police Officer Denzel Jacobs :

2019-20391

Tax Registry No. 959709 :

84th Precinct :

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Penny Bluford-Garrett, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Police Officer Denzel Jacobs, assigned to PSA 1, on or about April 13, 2019, did wrongfully engage in conduct prejudicial to the good order and efficiency of the Department, to wit: said Police Officer Jacobs violated a valid Kings County Family Court Order of Protection.

P.G. 203-10, Page 1, Paragraph 5

GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 27, 2020. Respondent, through his counsel, entered a plea of Guilty to the subject charge and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having carefully reviewed all of the evidence in this matter, I recommend that Respondent forfeit thirty-one (31) days already served on pre-trial suspension, and that he be placed on one-year dismissal probation.

SUMMARY OF EVIDENCE IN MITIGATION


This matter involves Respondent's interaction with a woman (hereinafter "the complainant") with whom he has a child in common. At the time of the incident, the parents were separated, and had a custody arrangement that granted Respondent visitation rights on certain days. Respondent also was the subject of a full stay-away order of protection, issued by Kings County Family Court on behalf of the complainant. (Dept. Ex. 1; Tr. 22, 24-25, 32)

On the afternoon of April 13, 2019, Respondent brought their son, who was about two weeks shy of his fourth birthday, to the Midtown North Precinct for a pre-arranged exchange with the complainant. Respondent testified that when the complainant arrived, he asked her

about making plans so that he could be with their son on his upcoming birthday; Respondent had previously sent emails to the complainant on this issue, but the complainant had not replied. Complainant told Respondent that she would answer him by email. Respondent stated that it was a simple yes or no question, and the complainant repeated that she would respond by email. The complainant then walked out of the precinct with the child, and Respondent, despite the order of protection, followed her outside. (Tr. 23, 26-29, 48)

As the complainant walked with her son westbound on West 54th Street, Respondent continued to follow her. He again asked the complainant whether he could see their son on his upcoming birthday; she replied that she could not talk about it now, and would send Respondent an email. Respondent followed the complainant about 200 feet up the block, where she asked him if she needed to go back to the precinct to get an escort. Respondent testified that he told her to just leave, but she nevertheless turned around and walked back to the precinct. (Tr. 29-30, 49-53)

Inside the foyer area of the stationhouse, Respondent told the complainant not to make a big deal of this and just go. He and the complainant were talking loudly, and other police officers from the precinct came over to them to ask what was happening. The officers told Respondent to come inside, and he went and spoke with them at the back of the precinct, while the complainant and child left through the front. (Tr. 30-31, 54-56)



Respondent admitted that he was wrong to continue asking the complainant about their son instead of letting them leave after the complainant said she would email him. He explained that he was a passionate father who loved his son, and he wanted to be with his son on his

birthday. Respondent also noted that earlier that week, his great aunt had passed away, which was on his mind at the time of the incident. Nevertheless, Respondent fully acknowledged that he should have handled the situation differently than he did. (Tr. 26, 31)

Video footage from cameras inside and outside the precinct captured some of the incident (Dept. Ex. 2). At 2:00:18, the footage shows the initial interaction between Respondent and the complainant inside the precinct: there appears to be a brief discussion before the complainant and child walk out, followed by Respondent. The outside footage shows Respondent following them slowly up the block; about one minute later, all three can be seen returning to the precinct. Back inside the stationhouse, the complainant appears to be speaking with someone about Respondent, and Respondent repeatedly points toward the exit. The complainant and child again walk to the exit, and Respondent follows them to the foyer area. Several police officers can be seen rushing to the area, and Respondent accompanies them back inside the precinct at 2:02:43, while the complainant and child walk off.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on October 7, 2015.

Respondent has pled guilty to violating an order of protection, by following the complainant and repeatedly asking her about birthday arrangements involving their four year old son. The Department asks that Respondent forfeit 31 days already served on suspension, 20 additional vacation days, and that he be placed on one-year dismissal probation. Respondent

argues that under these circumstances, that penalty is excessive. For the reasons explained below, I agree with counsel for Respondent that a lesser penalty is warranted here.

According to the discipline protocol issued by this Department on April 1, 2019, in connection with MOS who commit acts of domestic violence (Resp. Ex. A), the presumptive penalty for violation of an order of protection is dismissal probation, along with the forfeiture of penalty days. The protocol puts MOS on notice that the Department “takes every instance of alleged domestic violence seriously.”

The Department Advocate argues that in addition to dismissal probation, Respondent should forfeit 31 days previously served on suspension, as well as an additional 20 vacation days for a total of 51 penalty days. The Advocate notes that part of its recommendation is based on whatever conduct Respondent may have engaged in leading to the issuance of the January 24, 2019, order of protection; however, there was never a finding of wrongdoing against Respondent for any prior incident, and it would be unfair to enhance his penalty for that reason.

Counsel for Respondent, meanwhile, argues that a forfeiture of 51 penalty days along with dismissal probation should be reserved for more serious misconduct. To illustrate that point, counsel cites a case approved earlier this year, *Disciplinary Case No. [REDACTED]*, where a 13-year sergeant with no disciplinary record negotiated a penalty of 33 pre-trial suspension days and one-year dismissal probation for conduct that was arguably more serious than what occurred here. There, the respondent engaged in a physical altercation with his girlfriend on two separate dates: on the first, he forcibly removed her from a vehicle, while on the second, he slapped her in the face and arms, causing bruising and a black eye; on another occasion, he shattered the windshield glass of her car while she was inside it, causing her to fear for her safety; on a fourth occasion, he threatened her over the phone.

In addition to providing presumptive penalties, the protocol also notes the importance of taking into account “the totality of the circumstances” surrounding the alleged misconduct in order to determine an appropriate penalty. Here, Respondent has no disciplinary record, and the aggravating factor of causing physical harm to the complainant was not present. Although he repeatedly questioned her about making arrangements for their son’s birthday, he did not verbally threaten the complainant. The entire incident lasted approximately two minutes, and occurred while Respondent was not on-duty. On the witness stand, Respondent expressed appropriate remorse for his actions, acknowledging that he should have handled the situation differently than he did.

Nevertheless, any instance of domestic violence is unacceptable, and there were several troubling aspects to this incident. The fact that Respondent chose to engage in this conduct while he was subject to an order of protection suggests that a period of monitoring is warranted. Even though Respondent explained his actions as being motivated by his love for his son and his passion as a father, his behavior, in front of the child, was improper. Upon their return to the precinct, Respondent was speaking loudly enough to the complainant to prompt several other police officers to hurry to the foyer area before Respondent accompanied them back inside. In light of these actions, a reasonable forfeiture of penalty days, in addition to the dismissal probation, is appropriate. Taking into account the totality of the facts and circumstances in this particular matter, I recommend that Respondent forfeit thirty-one (31) days already served on pre-trial suspension, and that he be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one (1) year pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the

force at the Police Commissioner's discretion, and may be terminated at any time without further proceedings.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER DENZEL JACOBS
TAX REGISTRY NO. 959709
DISCIPLINARY CASE NO. 2019-20391

Respondent was appointed to the Department on October 7, 2015. On his most recent performance evaluations, he received 3.0 overall ratings of “Competent” in 2016 and 2017. [REDACTED]

Respondent has no disciplinary record. On October 1, 2018, he was placed on Level 1 Discipline Monitoring. In connection with the instant case, Respondent was suspended from duty on April 15, 2019, and upgraded to Level 2 Discipline Monitoring on May 21, 2019; the monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials